

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANTHONY S. WILLIAMS,	§
	§ No. 36, 2021
Defendant Below,	§
Appellant,	§ Court Below—Superior Court
	§ of the State of Delaware
v.	§
	§ Cr. ID No. 1804003122 (K)
STATE OF DELAWARE,	§
	§
Plaintiff Below,	§
Appellee.	§

Submitted: March 23, 2021

Decided: April 26, 2021

Before **VALIHURA, VAUGHN**, and **TRAYNOR**, Justices.

**ORDER**

Upon consideration of the opening brief, motion to affirm, and record on appeal, it appears to the Court that:

(1) The appellant, Anthony S. Williams, filed this appeal from a Superior Court order sentencing him for a violation of probation (“VOP”). The State of Delaware has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Williams’s opening brief that his appeal is without merit. We agree and affirm.

(2) In 2018, a Superior Court jury found Williams guilty of fourth-degree rape. The Superior Court sentenced Williams, effective April 6, 2018, to fifteen years of Level V incarceration, suspended after two years for two years of Level III

probation. As part of his sentence, Williams was required to complete a sex offender treatment program selected by the Department of Correction. Williams was also to be evaluated for substance abuse and mental health and to follow all recommended treatment. This Court affirmed the Superior Court's judgment on direct appeal.<sup>1</sup>

(3) On October 5, 2020, the Department of Correction filed a VOP report. The VOP report alleged that Williams had failed to report to his probation officer several times, failed to appear for a sex offender evaluation, failed to appear or was late for work crew sanctions, had a urine sample that tested positive for alcohol and tramadol, and was discharged from a substance abuse program for lack of attendance. On November 16, 2020, the Department of Correction filed an addendum to the VOP report alleging that since the last VOP report Williams had failed to report to his probation officer three times and was discharged from a sexual disorders treatment program for lack of attendance. On December 23, 2020, an administrative warrant was filed for Williams's arrest. On December 30, 2020, the Department of Correction filed another addendum to the VOP report alleging that Williams had been arrested in the last two weeks for failing to verify his address as a sex offender, shoplifting, and offensive touching.

(4) After a hearing on January 5, 2021, the Superior Court found that Williams had violated his probation. The Superior Court sentenced Williams,

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<sup>1</sup> *Williams v. State*, 2020 WL 388431 (Del. Jan. 22, 2020).

effective December 23, 2020, to thirteen years of Level V incarceration, suspended after ninety days (to be served without the benefit of any early release under 11 *Del. C.* § 4204(k)) for eighteen months of Level III GPS. This appeal followed.

(5) In his opening brief, Williams argues that he was generally compliant with his probation from January 2020 until October 2020. He admits that he lost focus and got off track, but contends that he was not given the opportunity to correct himself and was treated too harshly by the Superior Court. He asks the Court to eliminate the probationary term of his VOP sentence.

(6) Williams admits that he violated his probation, but seeks a lesser sentence. This Court's appellate review of a sentence is extremely limited and generally ends upon a determination that the sentence is within statutory limits.<sup>2</sup> Once Williams committed a VOP, the Superior Court could impose any period of incarceration up to and including the balance of the Level V time remaining on Williams's sentence.<sup>3</sup> Williams's VOP sentence does not exceed the statutory limits or the Level V time previously suspended. Williams has not shown any basis for this Court to eliminate the probationary term of his VOP sentence.

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<sup>2</sup> *Kurzmann v. State*, 903 A.2d 702, 714 (Del. 2006).

<sup>3</sup> 11 *Del. C.* § 4334(c); *Pavulak v. State*, 880 A.2d 1044, 1046 (Del. 2005).

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED and the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ James T. Vaughn, Jr.  
Justice